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Supreme Court, U.S.
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No. _____

In the Supreme Court of the United States.

October Term, 1995

ZIBA BENNETT PHELPS III, PRO-SE
Petitioner,

V.

WINCHESTER MEDICAL CENTER, Inc.
Wincheste, Virginia
OF COUNSEL J. SLOAN KUYKENDALL III, esq.
Respondent.

Petition for a Writ of Certorari to the Supreme Court of Virginia, Richmond.

Petition for Writ of Certiorari

ZIBA BENNETT PHELPS III, Pro-Se
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Front Royal, Virginia 22630

December 8, 1995

54 pp

Questions Presented.

(1) May the CIVIL RIGHTS LAWS, (42 USCS 1981 et seq., Equal rights under the law), be suspended by a trial court judge who refuses to recuse himself from a case where he has an interest and a possible financial interest as well, and further may a supreme court of the same state up hold his decision?

(2) The practice of Genocide (against a race of people of only 3000 in this country) by a trial court, supreme court of a state and its judicial system by the forced separation of husband and wife be furthered by the nonsuiting of a wife from a case where there is no attempt to serve her which in addition is against U.S.Code, Chapter 50A, Genocide, be allowed?

(3) Where the nonsuiting of a spouse from a case which also prevents any attempt by the defendant/Petitioner to pay due to dower interests of the wife in land be used as a device to protect the financial interests of the Respondent out side and beyond their claim against the Petitioner of that outlined in the case?

(4) The refusal of a trial court judge to allow discovery , admissions, etc. in a case where he is the former law partner, counsel to the defendant, and perhaps in addition has a financial interest in the case because he may have received a fee for arranging gift for the plaintiff/Respondent from the trusts of the Petitioner, is it not a violation of the CIVIL RIGHTS, 42 USCS 1981,et seq. of the Petitioner and his wife?

(5) May the Genocide Laws and protection of U.S.Code, Chapter 50A, be denied or suspended to further the interests of a trial court or the supreme court of a state or commonwealth?

(6) Like wise may the CIVIL RIGHTS LAWS, (42 USCA 1981. Equal rights under the law), be denied or suspended to further the interests of a trial court or supreme court of a state or commonwealth?

(7) Does a trial court have jurisdiction when there is no apparent attempt to locate and serve the wife of the Petitioner who is named as a defendant and by state law she has a responsibility in the out come of the case? Further does a supreme court of a state or commonwealth have jurisdiction over an appeal where the trial court does not have jurisdiction?

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CASES.

No cases on Genocide nor on the Code of Virginia 8.01-220.2 found.

Gourdine v. Ellis **cited as 435 F.Supp. 882 (1977)**

OTHER AUTHORITIES

The Constitution of the United States **and its Amendments.**

Civil Rights Act of 1964, 701 et seq., **701(a) as amended 42 U.S.C.A. 200E ET SEQ., 2000e (a); 42 U.S.C.A. 1981,1983; Fed. Rules Civ. Proc. Rule 12(f), 28 U.S.C.A.**

Code of Virginia **8.01-220.2**

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OPINIONS BELOW.

The Supreme Court of Virginia in its denial of a Petition for Appeal on August 4, 1995 is of opinion there is no reversible error in judgment complained of. This is the only opinion offered in any of the three denials from the Supreme Court of Virginia. (APPENDIX C)

JURISDICTION.

The denial of the Supreme Court of Virginia for a Petition for Appeal was entered on August 4, 1995, and the denial of a Petition for Rehearing was entered on September 15, 1995; and the mandate entered and filed on October 24, 1995. Under Rule 5:41 of the Rules of the Supreme Court of Virginia an appeal to the United States Supreme Court is permitted, as well as the jurisdiction of this Court is invoked under 28 U.S.C. - 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

The Constitution of the United States provides certain rights which are applicable to this Petition and these are enumerated in Constitution Article IV, Section 1 and Amendments; Article V and Article XIII. Applicable also are Civil Rights Statutes in the Code of the United States and this includes U.S.C. Chapter 42, Article 1986, Action for neglect to prevent conspiracy. With the above lies U.S.C. Chapter 50A. Genocide the under lying reason for the action for the courts. The Code of Virginia 8.01-220.2 Spousal liability for emergency medical care is also to be considered, APPENDIX M.

STATEMENT OF THE CASE

The denial of Civil Rights and the continuing practices of Genocide culminate in the decision of the Supreme Court of Virginia of September 15, 1995 to deny the Petition for Rehearing in this case. Due process is denied by denying the presence at the trial court hearings of Gladys Phelps the wife of the Petitioner also known as Gladys Marie Phelps. This Supreme Court of the United States in a

decision in 1990 in Case No. 90-101 denied this Petitioner, ZIBA BENNETT PHELPS III, a WRIT OF HABEAS CORPUS to locate Gladys Phelps in another action. Today the Supreme Court of the United States is another Court with three different members. Case No. 90-101 is laid out here at the start less it be discovered later and questions arise. All of the above is intertwined and has deep roots in keeping the Petitioner and his wife separated and is done with malice of forethought for reasons to control a large hereditary fortune in the form of trusts. While the action is against the persons of the Petitioner and his wife to accomplish this grand theft, it is not a personal matter against the Petitioner and his wife as it is beyond that.

BLOOD

Some back ground is necessary to understand the above and the relation to this case. The Petitioner and his wife Gladys Phelps both have AB rh- blood which is rare. In the United States there are only 3000 with this type of blood and world wide there are only 50 thousand. If another set of statistics is used, it can be gotten up to 9000 and 150 thousand world wide. No matter how one views it there are not too many people with AB- blood. There is a reason for this, and it is unique to those that have this type of blood. The AB- male can only have children with an AB- female. If he unites with a female who has O, A or B type blood nothing happens. This is because the antigens and isoantibodies in the blood of the female destroy the male gift and it is done in less than 60 minutes. This is the female defense system and that is why when a female mates with a pony or dog nothing happens.

A. The AB- female is not controlled in the same manor as the male. She may mate with the AB- male and the O, A or B male and have children by any of the 4 blood types. In some cases she can have trouble conceiving with

one of the other types but not necessarily.

B. Because of this phenomena any children that AB- female has by other blood types, these children can not reenter the AB- blood group. This is because the male determines the blood type and only he. Therefore all the children by an AB- female sired by an other blood type would have a blood type the same as the type of blood as the father that sired them. This is what happened to the tribes of Israel when Dinah was seduced by Hanor; a noncompatible blood type was introduced which took over the blood of the tribes.

C. The AB- male must have an AB- female and this is AB rh- type blood. This is often misunderstood. It is not the rh- that is the controlling factor. It is the combination of both AB blood and the rh- factor. There is rh- in all of the blood types, but in the AB blood it becomes one of the controlling factors in conception.

D. The statistics on the number of AB- blood types within the types is probably not too accurate. However the location of these people is very fascinating. There is an AB + blood reported with a ratio of 1 in 500. However every time one is discovered and rechecked it comes out to be a B +. Also it should be noted that the pharmaceutical supply houses do not stock AB+.

E. In tracing families, this AB - blood requirement of the male, explains why some families die out suddenly and also why some children were hidden in other families. It is also a tool in researching deeds.

F. The Petitioner on entering the service was listed as a white, Caucasian with AB - type blood. Under this AB- classification in this blood type of 3000, there are also colored

families. One colored family with AB - blood was traced back to Sheffield, England in the 1600's. There is a colored woman in the Baltimore area as well with AB- blood. How many of the 3000 people within the colored group having AB - blood is not known. It may be half or more. It is just not known. If one looks at this in the broad sense, it is only natural, for Abraham's first son had dark skin and was the child of the Pharaoh's handmaiden. His second son was by Sarah.

G. Within the AB - blood type there are as well special groups. In 1984 there were 105 people within the same special group as the Petitioner. This group is supposed to have between 100 and 125.

H. The oldest blood test in the world was made probably in 5000 B.C. This test goes some thing like this. Take some blood from an AB - individual and mix it with alcohol and let it dry on a white surface. Such as linen or glass. The dried blood will have a blue tint to it. This is why the Roman soldiers at the crucifixion of Christ, where there was a lot of his blood, raised the I H S sign above Christ's head. The Roman Solders had made this test. Also one can consider the old adage Blue Blood. The blue color comes from the high iron in their AB - blood.

Consider the Civil Rights Law where it is against the law to discriminate against anyone because of race , color or religion. The Definition of race according to Webster is "Descendants of a common ancestor; a family, tribe, people, or nation believed to belong to the same stock; a lineage; breed; also, a class or kind of individuals with common characteristics, habits or the like;" The AB - Type Blood qualify the Petitioner and his wife, Gladys Phelps as part of a very small race. Also the Petitioner when he meets his wife would like to verify that she is his second cousin once

removed. In spite of all the adverse things that have occurred there is a son by this union of the Petitioner and his wife, who is now some 42 years old. The powers keeping the Petitioner and his wife Gladys Phelps apart have not been totally successful.

There is a deliberate effort by the Tri-Lateral of the Rockefeller group to use the Judicial System to keep people of AB- blood separated and particularly in the case of this Petitioner and his wife. In the U.S. Code Title 18, Chapter 50A, GENOCIDE there is listed under "(a) Basic offense, part (5), imposes measures intended to prevent births within the group;", and this is the deliberate act practiced by the above and the Virginia Judicial System. Mere separation of those people with AB- blood will accomplish with ease what a bullet will do. If one does not believe this, take the United States alone. Where there are about 300 thousand people and only some 3000 people with AB- blood. If it is considered that half of the population are women, then the AB- blood male must look for a mate where there is only one in some 200 thousand woman to find one AB- female. Next to impossible. Therefore he must go back to his family lines, and if they have been corrupted by marriages outside the blood lines, he is out of luck. With the concerted effort to keep the Petitioner and his wife, Gladys separated, the Petitioner can not but help feel that this country cares more for the snail-darter and the spotted owl, than for humans that are becoming extinct. If this is not so why were the Virginia State Police called off after they had found the Petitioners wife, Gladys Phelps.

GLADYS PHELPS FOUND AND VIRGINIA STATE POLICE CALLED OFF

In October of 1988 the Petitioner went to the Investigator's of the Virginia State Police and asked for help

in finding his wife Gladys Phelps. They found her and even talked to her. This was not reported to the Petitioner, for he had to find out through other means. The Investigators used the method recommended by the Petitioner to find her. Law enforcement investigators are not very subtly. They are more like a dairy farmer tracking through a house with his boots on. They leave a wide track easily followed, and this is how it was all found out. At the end of January 1989, the Petitioner was told that the Investigators had been called off and were not to talk to the Petitioner and do nothing further in locating his wife Gladys. This is unusual and a subtly investigation was made by the Petitioner. There is a letter in the APPENDAGE FOR PETITION FOR APPEAL from the Superintendent of the Virginia State Police, Col. Southward, giving his reasons for so doing. Because the reasons are so inadequate, they are most revealing. Further work reveled that his orders came from the Attorney-General's Office and Mary Sue Terry was Attorney-General at that time. Also Associate Justice Henry Whiting of Virginia figures in the conveying of the message to the Attorney-General. All of this has had to move slowly and careful because of the people involved. This is very disconcerting to the Petitioner as here one has the Investigators Virginia State Police finding Gladys Phelps and even talking to her, and yet the Petitioner is never told of this by them. This Petitioner had to find out from other sources this information. This is controlling ones life by the police and at the direction of the Judicial Powers of the Commonwealth. At the time the Petitioner did not know the reasons for this blatant misuse of powers in the Attorney-General's office. This also eventually traced back to Attorney Edward Darling in Wilkes-Barre, Pa. Darling controlled the courts in Virginia as he controlled over 50% of the Pennsylvania Railroad, etc. which owed the Norfolk & Western Railway and the Southern Railway. Add to this he was second echelon Tri-Lateral. Darling had the power to cause these things to happen. With all of the above in mind,

let us take a look at this case and why the Writ of Certiorari.

START OF CASE

This action starts in October 22, 1993 when the Petitioner, ZIBA BENNETT PHELPS III, was involved in an automobile accident requiring emergency medical care and was taken to the Winchester Medical Center, Inc. because of a fractured pelvis. The Petitioner's insurance covered part of the medical costs and the Winchester Medical Center, Inc. sued to recover the rest. The papers to be served on the Petitioner show a date of May 5, 1994 not May 4, 1995 as shown on the list of documents sent from the clerk of trial court to the Supreme Court of Virginia. Also a date of service | not found | of May 11, 1994 on Gladys Phelps is the same date that service was made on the Petitioner at his home, and he was not asked where Gladys Phelps might be found or if she were there. There could not have been any effort to serve papers on the Petitioner's wife or even an attempt, as previously stated she was located by the Investigators of the Virginia State Police, and they were called off by orders from the Attorney-General's Office. The papers served on the Petitioner were served just after he left REHAB and had returned home, and this was at a time when all the medical services involved were serving him, he was most confused. Just previously in March Attorney James B.Feinman, esq. of Roanoke had lost the traffic case and abandoned the Petitioner keeping all the hospital records. Feinman had to be threatened with a suit to recover the medical papers.

There is a lot about this action that has yet to be explained, as he refused to take the case of medical damages if the Petitioner mentioned that the accident was a deliberate attempt to force him off the road. But this is not about this case and is only mentioned to give the environment in which this case occurred.

SERVICE

On May 17, 1994 a certified mailing of copy Notice of Motion for Judgment for Default Judgment was mailed to the Defendant (Petitioner). Notice it is in the singular. The Order to non suit Gladys Phelps is dated May 19, 1994, [APPENDIX E]. The act of non suiting a wife from an emergency medical case makes 8.01-220.2 of the Code of Virginia [APPENDIX M] void, and the law of no purpose. To say the trial court did not know what was going on would not be true for the following reasons. First the Winchester Medical Center , Inc. is represented by J. Sloan Kuykendall III who is the son of J. Sloan Kuykendall, Jr., and this firm was in 1985 Kuykendall, Wetsel & Kuykendall with the Wetsel being the trial judge in this case. In the late 1970s the firm was Kuykendall & Whiting and the Whiting is the former trial court judge who is now an Associate Justice on the Supreme Court of Virginia and was involved in some manor in carrying the message to the Attorney-General's Office as afore mentioned. The Kuykendall firm was counsel to the former Pennsylvania Railroad which entered Winchester, and the firms home office was there, as well the Pennsylvania owned control of the Norfolk & Western Railway and the Southern Railway which operate in the area. Edward Darling, esq. controlled through the Petitioner's trusts over 50% of the stock of the Pennsylvania Railroad, and he was known to these men, as he had to. Further more Darling operated in Virginia through the Front Royal group and the entire indenture of the Southern Railway to the Central Trust Company of New York is registered in the Front Royal Courthouse. The trusts that Darling controlled were created in 1933 for the Petitioner when he was four years old from his grandfathers assets and Darling was one of the Guardians. Over fifty percent of the Pennsylvania is in the Petitioner's trust. The Kuykendall firm is now counsel to the Pennsylvania Transportation Company which is the surviving company.

It can not be said that these men did not know about the Investigators of the Virginia State Police being call off from their investigation in locating Gladys Phelps in 1989. When the name of Gladys Phelps went on the MOTION FOR JUDGMENT in this case, probably by accident, filed by the Winchester Medical Center, Inc. the Kuykendall firm started damage control to separate Gladys Phelps from the case. The result was the order to nonsuit Gladys Phelps from the suit. Any effort to reinstate her into this case was stone walled by the trial judge. Later one will see there are even more reasons. This abandoning of the statue 8.01-220.2 Spousal responsibility which was brought up by Counsel Kuykendall for the Respondent, is a violation of the Civil Rights Statue, 42 USCS 1981 et seq., etc. as well as it is a further act by the Virginia Judiciary in Genocide, which is the keeping of the Petitioner and his wife separated. To go with all this, Edward Darling, esq. had the Petitioner Black Listed in 1975 with all the railroad attorneys and instructed some of them to go after him. This is why the Petitioner is Pro-Se. It is not because he would not like to have an attorney, it is because those that have any railroad connection will not touch him and the rest are just scared. If this is not a violation of the basic Civil Rights Law what is.

The Petitioner proceeded to file an Answer and Cross-Bill on May 23, 1994 which crossed in the mail with the order to nonsuit Gladys Phelps. The Petitioner then filed the following motions as listed:

a) Motion to Reinstate and Motion to Recuse the Honorable Judge John E Wetsel, Jr. from These Proceedings on June 1, 1994.

b) Praecipe placing cause on June 20, 1994 Motions Day for entry of Order & Motion to Reinstate filed on June 6, 1994.

c) Motion to Request Criminal Pleadings against the unknown holding Gladys Phelps, and Motion to release the

Virginia State Police to find Gladys Phelps filed on motions day June 20, 1994.

On Motions Day June 20, 1994 the above were heard and resulted in the LAW PRETRIAL ORDER of June 21, 1994 which is APPENDIX F.

DISCOVERY

During the summer the Petitioner investigated several matters and discovered the possibility that the following might be true. One, that the Winchester Medical Center, Inc. received some 100 million dollars from the Petitioner's trusts in Wilkes-Barre, Pa. The Winchester Medical Center, Inc. was built in 1987 and '88 and cost some 87 million dollars to build. Also that the trial court judge had received some 3 million for finders fees and other services. In addition the Petitioner discovered certain documents in the Frederick County Court House verifying that the trial court judge had been counsel to the Winchester Medical Center when he was with the law firm of Kuykendall, Wetsel & Kuykendall just before going on the bench. This is of interest; the Winchester Medical Center, Inc. is in the City of Winchester which has its own clerk's office and records. To be correct these records should be in the clerks office for the City of Winchester and not in the Frederick County Clerk's Office. One can not help but wonder is this another cover up to make it hard to find records. Note that counsel in this action of the Winchester Medical Center, Inc. is J. Sloan Kuykendall a former partner of the trial judge.

The next thing the Petitioner did was to contact the Virginia State Corporation Commission by phone and was referred to the Charitable Corporations Division. There he was told that these records were not kept in Richmond and he would have to contact the Winchester Medical Center, Inc. This meant that the only way the Petitioner could get to see these records was through the trial court by requesting the records in disclosure.

FLORIDA

In August of 1994 the Petitioner received notice that a guardianship hearing was going to be held in Palm Beach County, concerning his 89 year old mother who was in a nursing facility. The Petitioner asked the trial court for an extension so he could appear and find out what was going on in Florida. This resulted in the ORDER RESETTING TRIAL DATE | APPENDIX G | of September 8, 1994. In Florida the Petitioner found an 89 year old woman with no money, around the clock nurses and in an expensive facility. On investigation the Petitioner found that an individual suppose to be looking after his mother had walked off with some 2 million dollars, and that her affairs were in poor shape. This is more than unusual as the source of her money is a trust of her grandfather and great uncle which was handled by the New York law firm of Sullivan & Cromwell. The late John Foster Dulles who was Secretary of State is named in the will as an Executor and Trustee, and Bankers Trust Company is also Executor and Trustee. At one time there was over 200 million dollars in the estate in 1926. This is natural as her grandfather, Gurnee, was President of the New York Central Railroad for a number of years as well as being on the board of other companies, etc. This estate has been badly handled and some of this can be laid at the feet of John Foster Dulles and his brother Allen Dulles who was head of the CIA. While seeing his mother, who being old talked to much, the Petitioner discovered somethings. Also the investigation started by the Petitioner revealed other things. There is a linkage between Sullivan & Cromwell and Bankers Trust Company and some of the things that have happened here in Virginia. Bankers Trust Company holds a lot of the Chattel Mortgages on rolling stock of the Pennsylvania Railroad and by necessity in reports on cars, etc. they are known to the firm of Kuykendall from which

the trial judge came from. This is why in Discovery and Admissions there were certain questions asked about Bankers Trust Company. This was denied by the trial judge. The Bankers Trust Company is the same company involved in the derivatives this June and the great loss to Orange County, California.

INCORRECT ORDER

On returning from Florida and checking the file in preparation for the trial in November, the Petitioner discovered that the LAW PRETRIAL ORDER | APPENDIX F | was not correct, and item three concerning criminal pleadings against his wife Gladys Phelps had never occurred. The Petitioner filed a Motion to Correct Improper Order which was heard on October 17, 1994, and is noted in APPENDIX H with an explanation. This has never been properly done, and is a strong indication that the trial court never intended to serve Gladys Phelps or to have her present at the trial which is a violation of the Code of Virginia 8.01-220.2, and nonsuiting was just a way of circumventing the error caused by putting her on the Notice of Motion for Judgment and the Motion for Judgment.

INTERROGATORIES AND ANSWERS

The Petitioner filed some four Admissions with the trial court on November 7, 1994 to discover the origin and whether Edward Darling, esq. had supplied the money to build the Winchester Medical Center, Inc. on about 1987 from the trusts of the Petitioner in Wilkes-Barer, Pa. Lying with the many reasons for doing this, is also to see if Darling had put in this endowment or gift the family clause which says in effect that any blood member of the family will be treated at no expense. With this information would come the involvement of the trial judge in negotiating the deal and what was his compensation. On November 21, 1994 the motions were heard in the trial court and the defendants now

the Petitioner, Admissions and Answers were denied. This having been done the Petitioner asked the trial court judge if he had any conflict of interest in hearing this case. After a pause the reply was no. It just so happened that the Defendant/Petitioner had with him the deeds and other papers showing that the trial judge had done legal work for the Winchester Medical Center, Inc., while he was a senior member of the Kuykendall law firm. Figuring that every thing had gone wrong the Defendant Petitioner reframed from submitting them to the trial court at this time. He would choose another course of action to bring them before the court.

SPECIAL APPEAL

The Petitioner filed by mail a Special Appeal with the Supreme Court of Virginia on November 27, 1994 in which were inclosed the deeds and other papers that the trial judge had done for the Winchester Medical Center, Inc., in the Appendage for Special Appeal. It was sent over night mail, and nothing was heard from the Supreme Court of Virginia. The Special Appeal also covers the matter of the Petitioner's wife being nonsuited from this case with other matters.

TRIAL COURT HEARING

Since nothing was heard from the Supreme Court of Virginia, the Defendant/Petitioner proceeded to the trial court on November 30, 1994, and on taking the stand in his defense, the defendant/Petitioner presented into evidence the deeds and judgment leans that the trial court judge had done while he was counsel for the Winchester Medical Center, Inc., and its predecessor the Winchester Memorial Hospital. The trial court judge handed the papers over to J. Sloan Kuykendall III who took them to his seat. After a quick peruse rose with alarm and said to the judge these can not be entered. Remember they are just the documents from the clerk's office of Frederick County, but proof positive that the

trial judge was deeply involved with the plaintiff, the Winchester Medical Center, Inc. The trial judge refused to enter the defendants/Petitioners exhibits as evidence. This left the Petitioner with few arguments. One of the arguments was that the Winchester Medical Center, Inc. had grossly over charged for their room as it was 350.00 dollars a day for a room that was totally endowed and the hospital had no debt burden. The out come was inevitable and the jury found in favor of the plaintiff, the Winchester Medical Center, Inc.

RESPONSE

On December 15,1994 the Supreme Court of Virginia filed its denial in the Special Appeal [APPENDIX J] some 15 days after the hearing in the trial court and some 15 days after the trial court had issued its FINAL JUDGMENT ORDER of November 30, 1994.

PROCEEDINGS IN SUPREME COURT OF VIRGINIA

The Petitioner filed a Notice of Appeal on December 28, 1994 with the trial court and on January 23 he filed a statement with attachments with the clerk of that court. It is impossible to get a court reporter outside the area to come to Front Royal, and local reporters are not very reliable as they are under the influence of the court. In a sister case to this one the Petitioner had great trouble and the transcript was corrupted. This is why there was no court reporter requested at the trial on November 30, 1994. Therefore he had to file a Statement with the trial court within some 23 days of filing the Notice of Appeal. However from the record it appears that an unsigned memorandum not fully completed was substitute in place of the Petitioners. Anticipating problems the Petitioner sent a copy of this Statement to the Supreme Court of Virginia when he filed his Statement with the trial court.

On the 27th day of February 1995 the Petitioner filed a Petition for Appeal with an Appendage with the Supreme Court of Virginia. This was sent Certified Return Receipt Requested. Since the Petitioner did not request an oral presentation before the Supreme Court of Virginia, the clerk wrote did he so wish. The Petitioner replied he did so wish.

Please note that the Winchester Medical Center, Inc. did not file a Brief in Opposition with the Supreme Court of Virginia by their counsel J. Sloan Kuykendall III nor anyone else. The Winchester Medical Center, Inc. was not present at the oral presentation. It should be noted that an Associated Justice was asked to recuse himself from these proceedings in the Petition for Appeal, as he was a former senior member of the Kuykendall firm as well as being counsel to the Winchester Memorial Hospital which is now the Winchester Medical Center, Inc.

Nothing further was heard from the Supreme Court of Virginia on this matter until June 28, 1995 when a letter was received from the court by John Thomas Bruce [APPENDIX K] setting a date for on oral presentation before the court. The Petitioner duly replied both by phone and letter. The Petitioner then prepared a written presentation which took some 10 minutes to deliver, and presented the same to the court and read it into the record before three Associated Justices in Richmond on July 19, 1995. The courts only reply was we will be in touch.

On August the 4th, 1995 the Supreme Court of Virginia refused the Petition for Appeal without an opinion, [APPENDIX C]. The Petitioner then prepared a Petition for Rehearing, and submitted it to the court on August 14, 1995. This was sent by mail Certified Return Receipt Requested.

On September 15th, 1995 the Supreme Court of Virginia issued a denial of the Petition for Rehearing. The Petitioner received this decision on Saturday September 23rd, 1995 which is 8 days after the decision was rendered. The Petitioner followed with a Motion of Appeal or Petition for a Writ of Certiorari before United States Supreme Court on September 27th, 1995, which is permitted by Rule 5:41 of the Supreme Court of Virginia.

On October 28, 1995 the Petitioner received the ORDER DEFERRING ISSUANCE OF MANDATE dated October 24th,1995. This concludes all correspondence and communications with the Supreme Court of Virginia.

MAIL ROOM

This Petitioner took extraordinary procedures to see that the Supreme Court of Virginia got the Motion for An Appeal or Writ of Certiorari on time, and this was done with the cooperation of the Postal Service. The reason for this is in a sister case the Supreme Court of Virginia had refused Certified Return Receipt Requested mail and has never sent the Return Receipt card back. It was tracked to the mail room some six weeks late. Since there were only seven days for the court to receive the motion on time these procedures were put in place. A phone call was made by the right person and the Return Receipt card came flying out of the Supreme Court of Virginia mailroom. This card was dated received on October 5th, 1995, and a signed date of delivery of September 29, 1995. It appears the court wished to make a decision by saying the motion was timely filed. The Petitioner had only until September 30, 1995 to file the motion. It further appears that this is so as the courts extension of the mandate is dated October 24th, 1995. They may have been upset that this did not work. This sort of thing is an old Front Royal trick, and there are numerous cases of this sort of thing. However it now appears this sort

of thing is being practiced by the Supreme Court of Virginia.

NOTE

Please note the Winchester Medical Center, Inc., filed no Brief in Opposition by counsel J. Sloan Kuykendall III or any other counsel. Neither did it participate in any of the proceedings before the Supreme Court of Virginia as noted their in the record.

Reasons for Granting Certiorari.

What is this big deal of not letting the Petitioner's wife Gladys Phelps be present at the trial court hearing? The Investigators of the Virginia State Police have found her once and even talked to her. Both the trial court and the Supreme Court of Virginia have stone walled this issue, and this is in spite of the fact the Code of Virginia 8.01-220.2 makes a wife a party and responsible for emergency medical care. The Petitioner believes he knows and this is over a very large inheritance he was never told about and did not know existed until discovered in about 1985. This inheritance was created in 1933 when the Petitioner was three years old, and was walked off with by the guardians who through this inheritance controlled railroads, mines etc. There is some of this property in Virginia. Because of the amounts of money involved the Tri-Lateral and the Rockefeller group are actively participating in this. As previously stated the late Edward Darling, esq. was second echelon Tri-Lateral and his hold on this property and his position of power due to these large trusts within this inheritance has been taken over by the Tri-Lateral and Rockefeller group on his death.

The conspiracy of the above in this action comes out in the violation of the Code of Virginia 8.01-220.2, the denial of Civil Rights Act of 1964, 701 et seq., 701 (a) as amended 42 U.S.C.A. 2000e et seq . 2000e(a); 42 U.S.C.A. 1981,

1983; Federal Rules Civ. Proc. Rule 12(f), 28 U.S.C.A., and active pursuit of Genocide as out lined in U.S.Code Title 18, Chapter 50A, Genocide 1091 sec (a) part (5). These violations are listed as follows:

a) There was no attempt to find the wife of the Petitioner, Gladys Phelps who was found by the Investigators of the Virginia State Police in 1989 and they in turn were called off by the Commonwealth's, Attorney-General Office. No service was made on Gladys Phelps and it appears that no attempt was made.

b) Gladys Phelps was non suited from the case in the trial court thereby denying the Code of Virginia 8.01-220.2 Spousal liability in an emergency accident and the following care. A liability has been laid against the Petitioner which his wife has not been allowed to address. The medical bills of the Respondent were the result of an accident and its emergency care.

c) The Petitioner was prevented from finding his wife, Gladys Phelps, and the trial court denied a John Doe suit to find her, and denied an order to release the Investigators of the Virginia State Police to find her which they had done before.

d) The Petitioner requested by motion, orally, Special Appeal and by submitting evidence that the trial court judge recuse himself, because he had a conflict of interest and yet the trial court judge would not recuse himself and the Supreme Court of Virginia upheld his right to hear this case even though he has a financial interest in the results of this case.

e) The trial court judge and the counsel of the Respondent, J. Sloan Kuykendall III, esq. have been law partners, and the trial court judge was also the former counsel of the Respondent, the Winchester Medical Center, Inc.

f) Discovery, Admissions, etc. has been denied in the trial court and all records are in the Respondent's keeping

and not in the Virginia State Corporation Commission Offices. There is reason to believe that some 100 million was received from trusts in Pennsylvania controlled by the late Edward Darling, esq., further that the trial court judge received a finders fee and a fee for services for negotiating this grant to the Respondent, the Winchester Medical Center, Inc. in the amount of some 3 million dollars. The denial of discovery has been up held by the Supreme Court of Virginia.

g) Evidence from the Frederick County clerk's office showing that the trial court judge was counsel and did work for the Respondent, the Winchester Medical Center, Inc., was denied in the trial by the same trial court judge and objected to by their counsel J. Sloan Kuykendall III. This was also upheld by the Supreme Court of Virginia.

It should be noted that the Petitioner is not asking for compensation or monetary relief from the Winchester Medical Center, Inc., in his appeal to the Supreme Court of Virginia or in this request for a Writ of Certiorari. He is just asking for a new trial with another judge and that his wife be there. A fair and true bill should be paid. To do this the dower interests of the Petitioner's wife, Gladys Phelps in real estate must be met as well. Her presence will assure that land of the Petitioner can be sold with clear title. Also the matter of the family clause in the gift to the Winchester Medical Center should be addressed. Darling should have seen that it was in the gift. Further the presence of Gladys Phelps assures her of her rights in the property and inheritance rights in the trusts of the Petitioner. There is no attempt to not to pay a just bill from the Winchester Medical Center, Inc. Gladys Phelps' presence is denied at the trial court level, the Attorney-General's Office and the Supreme Court of Virginia, because they have a monetary reason or reasons to protect their interests or interests of others. This is conspiracy and a direct violation of the Civil Rights Act, 42

U.S.C.A. 1982 et seq., equal rights under law and further the forced separation of the Petitioner and his wife is Genocide under U.S.Code, Title 18, Chapter 50A sec (a) part (5) which is denied by Federal Law as they are a race because they both have AB- blood and they are part of the total of 3000 in this country with the same blood. All if this is practiced by the trial court, the Attorney-General's office, and the Supreme Court of Virginia, the Petitioner can not help but wonder if there is a greater conspiracy to eliminate all people with AB- blood including the colored.

Should there be any doubt why the Petitioner is Pro-Se, it is because he is Black Listed. This is a form of conspiracy that denies one access to the courts with legal counsel. It is hard work for some one to do all the work himself, and the fear of not proceeding in a proper manner is always there. The Petitioner discovered that Edward Darling, esq had Black Listed him in about 1982. It was easy for Darling to do as he just had to call certain key railroad lawyers and advise them of his wishes, as Darling controlled the railroads in Virginia through the Pennsylvania Railroad Stock in the trusts of the Petitioner. These key lawyers advised other lawyers of Darlings wishes lest they in turn be put on the Black List.

The Petitioner has not asked for the moon nor has he asked for money in his appeal to the Supreme Court of Virginia. He has asked for a new trial and that his wife be present. It is hoped that granting this Petition for Writ of Certiorari will further this request. The wife of the Petitioner has never remarried and devoted her life to raising her son, their son, and should not be treated in the manner she is. She has been subject to constant fear for her son and family. This Court has the power to rectify these matters through granting a Petition for a Writ of Certiorari.

Conclusion.

If the judicial system of Virginia including its courts can do the afore mention violations of Civil Rights, Genocide and suspension of due process to a white Caucasian with AB negative blood, the Petitioner, what then are they doing to the colored people or Afro- Americans. This Petitioner has felt the full brunt of the suspension of Civil Rights.

When a trial court judge can nonsuit a wife from a case where it is doubtful there was an attempt to serve her thereby voiding a state law, deny a defendants help by refusing to allow the wife to be located, denies the help of the Virginia State Police who have been called off previously by the Attorney-General's Office, refuse to recuse himself when he is the former counsel to the plaintiff/Respondent, the counsel for the plaintiff/Respondent is his former law partner, and refuse evidence from the clerk's office that this is so, refuse discovery where the plaintiff/Respondent is the possible recipient of a major gift from the trusts of the defendant/Petitioner and the judge is the possible recipient of a large fee for arranging this gift further giving reason for the denial of discovery, the Civil Rights Laws are abridged in there entirety. The power of the Civil Rights Laws which guarantees equal rights under the law is the Thirteenth Amendment, and this is the Constitution and cornerstone of this nation's laws. These actions in this case culminate along list of offences against the Petitioner and his basic Civil Rights, but because of the effort they represent in separating the Petitioner and his wife who are a minority race with AB-blood, this is an act of Genocide denied by the US.Code, Chapter 50A, 1091. All of this is up held by the Supreme Court of Virginia in its denial of the Petition for Appeal and Petition for Rehearing.

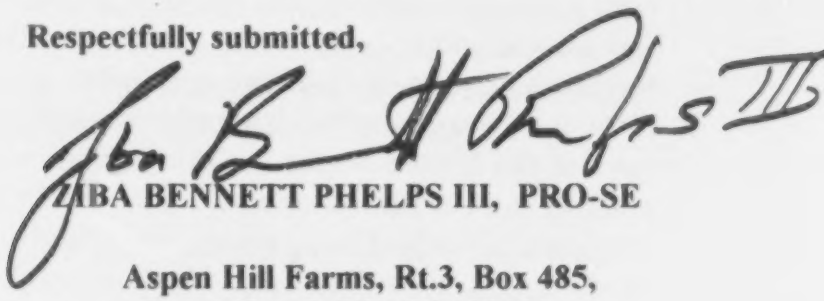
No trial court judge or Supreme Court of a state or Commonwealth is going to do these things unless they are protected because the danger of exposure and sanctions is too great. The source of the money to build the facility comes from Edward Darling,esq the guardian of the Petitioner who was also second echelon Tri-Lateral and affiliated with the Rockefeller group. In the true sense what is being observed is the interference by foreign nationals and countries in the laws of the United States. If this is what is going to take place in the United States, under the New World Order, all our laws will afford little protection, and this includes the Civil Rights Laws and Genocide. Sovereignty and its bastion of protection rests with the power of this Court. What is the fear of the Petitioner's request for a new trial with his wife present? Unless it will through open to light the actions of the Tri-Lateral and other foreign interests operating within our court system.

The granting of this Petition of Writ of Certiorari is to allow a Petitioner a new trial with his wife present and that this be done with due process. Nothing more. If the Civil Rights Laws can not help and protection from Genocide disallowed, then a path has been created by courts and the Supreme Court of Virginia to by pass the liberties and laws of this Nation by simply stone walling and denying due process. This Petitioner has felt the full brunt of the denial of the Civil Rights Laws and the suspension of guarantees of equal rights under law. It is humbling.

The granting of a Petition for Writ of Certiorari goes beyond a step in the Petitioner receiving a new trial with his wife present. It strikes at the very principals of this Nation's Sovereignty. The Petitioner would like to sign this One

Spotted Owl, but decorum prohibits this. Therefor he will sign this Petition for a Writ of Certiorari in the proper manner.

Respectfully submitted,



ZIBA BENNETT PHELPS III, PRO-SE

Aspen Hill Farms, Rt.3, Box 485,
Front Royal, Virginia 22630

December 8, 1995

Respondent
Winchester Medical Center,
Winchester, Virginia 22604

Counsel for Respondent,
J. Sloan Kuykendall III,
P.O. Box 2760,
Winchester, Virginia 22604-2760
Tel: ~~(540)~~ 667-4644

540

APPENDIX A
Decision of State Court of Appeals

THIS CASE went straight from the State Trial Court to the Supreme Court of Virginia and was done at the request of the Supreme Court of Virginia. Orders to do this are contained in the Final Judgment Order of the trial court, APPENDIX B.

APPENDIX B
Decision of State Trial Court

VIRGINIA:
IN THE CIRCUIT COURT OF WARREN COUNTY

WINCHESTER MEDICAL CENTER, INC.,
Plaintiff

v. **Law No. 94-106**

ZIBA B. PHELPS, III,
Defendant

FINAL JUDGMENT ORDER

This case came before the Court on November 30, 1994, for trial on the issue of the amount which the Defendant owed the Plaintiff for hospitalization. J. Sloan Kuykendall, III, Esquire, appeared for the Plaintiff, and the Defendant appeared in person without counsel.

The parties announced that they were ready for trial. A jury of seven persons was duly impaneled and sworn, and the case was tried. At the close of the evidence the jury was instructed, the case argued, and the jury retired to deliberate and returned with a verdict for the Plaintiff in the amount of $11,446.64.

Therefore, it is ADJUDGED AND ORDERED that WINCHESTER MEDICAL CENTER, INC., shall have judgment against ZIBA B. PHELPS, III, in the amount of

$11,446.64 with interest from November 30, 1994, and the cost of this action.

The Clerk is directed to send a copy of this order to counsel of record, and to the Defendant, who shall file such objections hereto as deemed advisable within ten days of their receipt of a copy of this order. Endorsement of counsel is dispensed with pursuant to Supreme Court Rule 1:13. The Defendant was advised of his right to appeal this judgment to the Supreme Court of Virginia by filing a notice of appeal in the office of the Clerk of this Court within 30 days of today.

Entered November 30, 1994.

_____

John E. Wetsel, Jr., Judge

APPENDIX C

Decision of State Supreme Court Denying Review

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on **Friday** ***the*** **4th** ***day of*** **August, 1995.**

Ziba B. Phelps, **Appellant,**

against **Record No. 950371**
Circuit Court No. L94000106-00

Winchester Medical Center, Inc., **Appellee,**

From the Circuit Court of Warren County

Upon review of the record in this case and consideration of the argument submitted in support of granting of an appeal, the Court is of opinion there is no reversible error in judgment complained of. Accordingly, the Court refuses the petition for appeal.

A copy,
Teste:

David B. Beach, Clerk

By:

Deputy Clerk

d1d

APPENDIX D

Order of State Supreme Court Denying Rehearing

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on **Friday the 15th** ***day of*** **September, 1995.**

Ziba B. Phelps,
Appellant,

against **Record No. 950371**
Circuit Court No. L94000106-00

Winchester Medical Center, Inc.,
Appellee,

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 4th day of August, 1995 and grant a rehearing thereof, the prayer of said petition is denied.

A copy,
Teste:

David B. Beach
Clerk

ele

APPENDIX E

VIRGINIA :
IN THE CIRCUIT COURT OF WARREN COUNTY

WINCHESTER MEDICAL CENTER, INC.
Plaintiff

v. **AT LAW NO. CL94000106**

ZIBA B. PHELPS III, et al
Defendants

ORDER OF NONSUIT

ON MOTION of Plaintiff, it is hereby ADJUDGED and ORDERED that this case be nonsuited against Defendant Gladys Phelps.

ENTERED this 19 day of May, 1994.

JOHN E. WETSEL, JR.
Judge

I ASK FOR THIS:

J.S.KUYKENDALL
J. Sloan Kuykendall III
Kuykendall, Johnson, Colman & Kuykendall, P.C.
Post Office Box 2760
Winchester, Virginia 22604
Counsel for Plaintiff

APPENDIX F

VIRGINIA:

IN THE CIRCUIT COURT OF WARREN COUNTY

WINCHESTER MEDICAL CENTER, Inc.,
Plaintiff

v. **Law No. 94-106**

ZIBA B. PHELPS, III,
Defendant

LAW PRETRIAL ORDER

THIS CASE came before the Court on June 10, 1994. J. Sloan Kuykendall, III, Esquire appeared for the plaintiff, and the defendant Ziba B. Phelps, III, appeared without counsel. Whereupon argument was heard on certain motions of the defendant and, upon consideration whereof, it is ADJUDGED and ORDERED that:

1. Defendant's motion to recuse is denied.

2. Defendant's motion to reinstate the claim of The Medical Center against Gladys Phelps is denied.

3. Defendant's motion to request criminal pleadings be instituted against Gladys Phelps is denied.

4. Plaintiff's motion to dismiss the Defendant's cross-claim (counter-claim) based upon its failure to state a cause of action is granted.

It appears the issue in this case is:

1. Whether the defendant Ziba Phelps is indebted to the Winchester Medical Center for medical care rendered to Mr. Phelps in 1993 as set forth in the Motion for Judgment?

2. If the defendant is indebted to the plaintiff, what is the amount of that indebtedness?

Upon consideration whereof, it is ADJUDGED and ORDERED that:

1. Discovery. The parties shall complete discovery by thirty days prior to trial. All discovery requests shall be filed in sufficient time to allow for responses under the Rules of Court by that date. Counsel are encouraged to participate in prehearing discovery conferences in order to minimize the filing of unnecessary discovery motions. No discovery motion should be filed until counsel has discussed with the opposing counsel the possibility of resolving the discovery matters in controversy. The Court will not consider any motion concerning discovery matters, unless the motion is accompanied by a statement of counsel that a good faith effort has been made between counsel to resolve the discovery matters in dispute.

2. Trial Date. This case is set for trial before a civil venire on September 29, 1994 at 10:00 a.m.

3. Instructions. Not later than ten days before the date set for trial for the plaintiff shall file (with the presiding judge) and serve on opposing counsel :

a. (i) Draft of issues instructions; e.g. M.J.I. - Civil No. 3.000; 16,000; 24.040; 27.070; 37.000; 45.000

(ii) Draft of finding instruction; e.g. No. 3.050; 3.060; 32.050; 36.080. in the format of Va. M.J.I. - Civil.

b. References by number any other instructions from Va. M.J.I. - Civil which will be offered.

c. Copy of any nonmodel instructions to be offered with citation and copies of supporting authority.

If Counsel for the defendant will object to plaintiff's instructions on substantive grounds, or offer additional instructions, he shall file and serve such objections and additional instructions as provided above not later than five days before trial. Counsel are not required to pre-file instructions on issues not reasonable (e.g. No. 2.190; 2.200; 2.210) or instructions that disclose trial tactics (e.g. No. 2.030: 2.130). Plaintiff's instructions will be numbered in the lower right corner, and defendant's instructions will be lettered in the lower right corner.

4. Expert Witnesses. Sixty days before trial, the plaintiff shall provide to the defendant in writing the name of any expert witness upon which the plaintiff intends to rely in its case in chief. Fort-five days before trial, the defendant shall provide to the plaintiff in writing the name of any expert witness upon which the defendant intends to rely in its case in chief.

5. Exhibits and Witnesses. Exchange of exhibits and a list of witnesses shall be submitted on or before ten days prior to trial. Any objections to exhibits submitted by any party must be filed with the Clerk of this Court and with the opposing party within 5 days of submission, or they will be deemed waived. Any exhibits filed and not objected to in writing will be admitted at trial. All exhibits submitted must be pre-marked with labels. NOTICE: If a party has more

than ten exhibits, the exhibits are to be indexed, tabbed, and fastened together. Stapling of the exhibits is sufficient fastening.

6. Motions. All Motions shall be accompanied by a written brief setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the movant relies. The opposing party shall file a response, including a like brief and such supporting documents as are then available within fifteen days after service. The moving party may file a rebuttal brief within five days after the service of the opposing part's reply brief. Counsel shall send copies of their briefs and all major, non-virginia authorities relied upon to the presiding judge at the Winchester-Frederick Joint Judicial Center, 5 N. Kent Street, Winchester, Virginia 22601.

7. Motion to Strike. Counsel for the Defendant shall prepare and file at the time at which a motion to strike the evidence of the Plaintiff is made a memorandum of authorities in support of that motion on any ground which is reasonably foreseeable in advance of trial. Copies of major authorities relied upon shall be provided to the Court.

8. Copies. The Clerk shall forward copies of this order to Counsel of Record, who shall file such objections hereto as they deem advisable within ten days of their receipt of a copy of this order.

ENTERED June 21, 1994.

_____

John E. Wetsel, Jr., Judge

APPENDIX G

VIRGINIA:
IN THE CIRCUIT COURT OF WARREN COUNTY

WINCHESTER MEDICAL CENTER, INC.,
Plaintiff

v. **Law No. 04-106**

Ziba b. Phelps, III,
Defendant

ORDER RESETTING TRIAL DATE

This case came before the Court on the Defendant's Motion for a Continuance, The Defendant appeared in person, and the Plaintiff appeared by its attorney, J. Sloan Kuykendall, III.

Upon consideration whereof, it is ADJUDGED AND ORDERED that:

1. Defendant's Motion for a Continuance is GRANTED.

2. This case is set for trial before a civil venire on November 30, 1994. All provisions of June 21, 1994, pretrial order apply to new trial date.

The Clerk is directed to send a copy of this order to counsel of record for the Plaintiff and to the Defendant, who

shall file such objections hereto as deemed advisable within ten days of their receipt of a copy of this order.

Endorsement of counsel is dispensed with pursuant to Supreme Court Rule 1:13.

Entered September 8, 1994.

_____

John E. Wetsel, Jr., Judge

h1h

APPENDIX H

THERE WAS a motion filed on October 13,1994 and heard on October 17, 1994 called MOTION TO CORRECT IMPROPER ORDER, and dealt with item 3. of the LAW PRETRIAL ORDER of June 21, 1994, APPENDIX F. The circuit court had miss read the MOTION TO REINSTATE AND MOTION TO RECUSE THE HONORABLE JUDGE JOHN E. WETSEL, JR. FROM THESE PROCEEDINGS, and the MOTION TO REQUEST CRIMINAL PLEADINGS AND HOSTAGE AND KIDNAPING OFFENSE, and there is nothing in these or any motions which came before the circuit court of Warren County in AT LAW CASE NO. 94-106 which suggests any action against the Petitioner's wife Gladys Phelps. Yet in the LAW PRETRIAL ORDER ITEM No. 3., it says "Defendant's Motion to request criminal pleadings be instituted against Gladys Phelps is denied."

THE TRIAL COURT'S remedy for this improper order was to cross out the words "against Gladys Phelps" which did not correct the problem as action was against JOE DOE who is the unknown holding Gladys Phelps.

Two things have occurred and they are:

1. No new order was ever issued showing any correction.

2. There was no action ever to be taken to release Gladys Phelps.

THIS APPENDIX H is submitted with the present order in the court house which is probably not initialed by the Judge and recorded 10/17/94.

Respectively submitted,

ELIBA B. PHELPS III, PRO SE

h2h

APPENDIX H

VIRGINIA:

IN THE CIRCUIT COURT OF WARREN COUNTY

WINCHESTER MEDICAL CENTER, Inc.,
Plaintiff

v. Law No. 94-106

ZIBA B. PHELPS, III,
Defendant

LAW PRETRIAL ORDER

THIS CASE came before the Court on June 10, 1994. J. Sloan Kuykendall, III, Esquire appeared for the plaintiff, and the defendant Ziba B. Phelps, III, appeared without counsel. Whereupon argument was heard on certain motions of the defendant and, upon consideration whereof, it is ADJUDGED and ORDERED that:

1. Defendant's motion to recuse is denied.

2. Defendant's motion to reinstate the claim of The Medical Center against Gladys Phelps is denied.

3. Defendant's motion to request criminal pleadings be instituted ~~against Gladys Phelps~~ is denied.

STRICKEN 10/17/94 LCW

4. Plaintiff's motion to dismiss the Defendant's cross-claim (counter-claim) based upon its failure to state a cause of action is granted.

h3h

It appears the issue in this case is:

1. Whether the defendant Ziba Phelps is indebted to the Winchester Medical Center for medical care rendered to Mr. Phelps in 1993 as set forth in the Motion for Judgment?

2. If the defendant is indebted to the plaintiff, what is the amount of that indebtedness?

Upon consideration whereof, it is ADJUDGED and ORDERED that:

1. Discovery. The parties shall complete discovery by thirty days prior to trial. All discovery requests shall be filed in sufficient time to allow for responses under the Rules of Court by that date. Counsel are encouraged to participate in prehearing discovery conferences in order to minimize the filing of unnecessary discovery motions. No discovery motion should be filed until counsel has discussed with the opposing counsel the possibility of resolving the discovery matters in controversy. The Court will not consider any motion concerning discovery matters, unless the motion is accompanied by a statement of counsel that a good faith effort has been made between counsel to resolve the discovery matters in dispute.

2. Trial Date. This case is set for trial before a civil venire on September 29, 1994 at 10:00 a.m.

3. Instructions. Not later than ten days before the date set for trial for the plaintiff shall file (with the presiding judge) and serve on opposing counsel :

a. (I) Draft of issues instructions; e.g. M.J.I. - Civil No. 3.000; 16,000; 24.040; 27.070; 37.000; 45.000

(ii) Draft of finding instruction; e.g. No. 3.050; 3.060; 32.050; 36.080. in the format of Va. M.J.I. - Civil.

b. References by number any other instructions from Va. M.J.I. - Civil which will be offered.

c. Copy of any nonmodel instructions to be offered with citation and copies of supporting authority.

If Counsel for the defendant will object to plaintiff's instructions on substantive grounds, or offer additional instructions, he shall file and serve such objections and additional instructions as provided above not later than five days before trial. Counsel are not required to pre-file instructions on issues not reasonable (e.g. No. 2.190; 2.200; 2.210) or instructions that disclose trial tactics (e.g. No. 2.030: 2.130). Plaintiff's instructions will be numbered in the lower right corner, and defendant's instructions will be lettered in the lower right corner.

4. Expert Witnesses. Sixty days before trial, the plaintiff shall provide to the defendant in writing the name of any expert witness upon which the plaintiff intends to rely in its case in chief. Fort-five days before trial, the defendant shall provide to the plaintiff in writing the name of any expert witness upon which the defendant intends to rely in its case in chief.

5. Exhibits and Witnesses. Exchange of exhibits and a list of witnesses shall be submitted on or before ten days prior to trial. Any objections to exhibits submitted by any party must be filed with the Clerk of this Court and with the opposing party within 5 days of submission, or they will be deemed waived. Any exhibits filed and not objected to in writing will be admitted at trial. All exhibits submitted must be pre-marked with labels. NOTICE: If a party has more

than ten exhibits, the exhibits are to be indexed, tabbed, and fastened together. Stapling of the exhibits is sufficient fastening.

6. Motions. All Motions shall be accompanied by a written brief setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the movant relies. The opposing party shall file a response, including a like brief and such supporting documents as are then available within fifteen days after service. The moving party may file a rebuttal brief within five days after the service of the opposing part's reply brief. Counsel shall send copies of their briefs and all major, non-virginia authorities relied upon to the presiding judge at the Winchester-Frederick Joint Judicial Center, 5 N. Kent Street, Winchester, Virginia 22601.

7. Motion to Strike. Counsel for the Defendant shall prepare and file at the time at which a motion to strike the evidence of the Plaintiff is made a memorandum of authorities in support of that motion on any ground which is reasonably foreseeable in advance of trial. Copies of major authorities relied upon shall be provided to the Court.

8. Copies. The Clerk shall forward copies of this order to Counsel of Record, who shall file such objections hereto as they deem advisable within ten days of their receipt of a copy of this order.

ENTERED June 21, 1994.

John E. Wetsel, Jr., Judge

APPENDIX I

VIRIGINIA:

IN THE CIRCUIT COURT OF WARREN COUNTY

Winchester Medical Center, Inc.,	Plaintiff
v.	Law No. 94-106
Ziba B. Phelps, III,	Defendant

ORDER

This case came before the Court on November 22, 1994. J. Sloan Kuykendall, III, Esquire, appeared for the Winchester Medical Center, Inc., and Ziba B. Phelps, III, also appeared.

Upon consideration of the argument of the parties, it is ADJUDGED and ORDERED that:

1. The plaintiffs motion for Summary judgment is denied.

2. The defendant's objections to the plaintiff's discovery responses are overruled.

3. The plaintiff's objections to the defendant's request for admissions are sustained,

4. The only issue to be tried at the trial of this case

is in what mount is the defendant indebted to the plaintiff.

The Clerk is directed to send a copy of this order to counsel of record, who shall file objections hereto as deemed advisable within ten days of receipt of a copy of this order. Endorsement of counsel is dispensed with pursuant to Supreme Court Rule 1:13.

Entered this 22nd day of November, 1994.

_____

John E. Wetsel, Jr., Judge

Certified to be a
True Copy of a Record
in the Clerk's Office of
WARREN COUNTY CIRCUIT COURT
William A. Hall, Clerk

By: William A. Hall, Deputy

Date: 11-30-94

j1j

APPENDIX J

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on **Thursday** ***the*** **15th** ***day of*** **December, 1994.**

Ziba B. Phelps III,
Appellant,

against **Circuit Court No. 94-106**

Winchester Medical Center, Inc.,
Appellee,

From the Circuit Court of Warren County

Because the order appealed from is not an appealable order, the Court rejects the petition for appeal in the above-styled case. This action is without prejudice to the right of the appellant to appeal a final order of the trial court.

Justice Whiting did not participate in the decision of this case.

A copy,
Teste:
David B. Beach
Clerk

Street entrance and proceed to the appellants, attorneys' workroom. A law clerk will direct you to the panel hearing room where you should remain until your case is called.

Please confirm receipt of this notice in writing or by telephoning my office at (804) 786-2259 by Wednesday, July 19, 1995.

Very truly yours,

John Thomas Bruce
Chief Staff Attorney

JTB/smg

k1k

APPENDIX K

SUPREME COURT OF VIRGINIA

SUPREME COURT BUILDING
RICHMOND, VIRGINIA 23219
804-786-2251

JUNE 28, 1995

Ziba B. Phelps, III
Aspen Hill Farms
Rt. 3, Box 485
Front Royal, VA 22630

Re: ZIBA B. PHELPS, III v. WINCHESTER MEDICAL CENTER, INC.
Record No. 950371

Dear Mr. Phelps:

The Court has instructed me to inform you that oral argument on your petition for appeal has been scheduled before a panel of Justices at 10:00 a.m. on Wednesday, July 26, 1995 for 10 minutes in the Supreme Court Building, 100 North Ninth Street, Richmond, Virginia. Because panels frequently run ahead of schedule, the time, the Court directs counsel to arrive 1 hour prior to the specified time except in cases set for 9:00 a.m. Failure to answer when your case is called may be deemed a waiver of your right to present oral argument.

Please enter the court building through the Ninth

APPENDIX L

VIRGINIA:

In the Supreme Court of Virginia at the Supreme Court Building in Richmond on **Tuesday** ***the*** **24th** ***day of*** **October, 1995.**

Ziba B. Phelps, **Appellant,**

against **Record No. 950371**
Circuit Court No. L94000106-00

Winchester Medical Center, Inc., **Appellee.**

ORDER DEFERRING ISSUANCE OF MANDATE

Upon consideration of the motion of Ziba B. Phelps, in proper person, it is ordered that issuance of the mandate in this case be and the same hereby is deferred, to and including the 14th day of December, 1995, on the expiration of which time the same may be issued, unless the case has been before that time docketed in the Supreme Court of the United States, in which event issuance of the mandate shall be deferred until the final determination of the case by that Court.

A Copy,
Teste:
David B. Beach
Clerk

m1m

APPENDIX M

CODE OF VIRGINIA

8.01-220.2. Spousal liability for emergency medical care. - On and after 1, 1984, each spouse shall be jointly and severally liable for all emergency medical care furnished to the other spouse by a physician licensed to practice medicine in the Commonwealth, or by a hospital located in the Commonwealth, including all follow-up inpatient care provided during the initial emergency admission to any such hospital, which is furnished while the spouses are living together. For the purposes of this section, emergency medical care shall mean any care the attending physician or other health care professional deems necessary to preserve the patient's life or health and which, if not rendered timely, can be reasonably anticipated to adversely affect the patients recovery or imperil his life or health. (1984, c. 482.)